IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1515 OF 1994

Manohar Kashiramsheth Redij
and Ors. .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

Mrs.S.A.Mudbidri for the petitioners

None for the respondents

CORAM: A.P.SHAH &
S.U.KAMDAR, JJ

DATED: 15TH SEPTEMBER, 2004

ORAL JUDGMENT (PER S.U.KAMDAR, J.):

1. The present petition is filed by the petitioner in a representative capacity under Order 1 Rule 8 of the Civil Procedure Code. The petitioners are claiming to be the holders / owners of the property within the town limits of Chiplun Municipal Area. The 3rd respondent who is the Municipal Council has inter alia claimed property tax from the various

property holders in Chiplun town limits.

2. Sometime in or about 1993 the 3rd respondent passed a resolution inter alia seeking to revise the property tax by recomputing rateable value for period 1993-94 onwards. On 23rd July 1993 the 3rd respondent issued notices calling upon the petitioner and other property holders to file their objection within 30 days against proposed revision of rateable value. Ultimately, sometime in or about August 1993 respondent no.3 has fixed the revised rateable value which according to the petitioners is 10 times higher then the rateable value fixed in the year 1988-89. On 13th August 1993 a revised resolution was passed by the 3rd respondent inter alia providing that revision will be kept in abeyance till revised structure of proposed ratable value is prepared for the purpose of levy of property tax.

3. It is the case of the petitioners that there after there were discussions and at the intervention of Collector it was agreed that the

property tax will be revised at half the rate then what is proposed by the 2nd respondent. However, the 3rd respondent claims revised property tax on the basis of earlier resolution which was kept in abeyance and claims the amount from the period 1993-94 and not from the period 1994-95 as agreed. It is this decision of the 3rd respondent which is a subject matter of challenge in the present petition.

4. The learned counsel for the petitioners have fairly conceded that under the provisions of s.169 of the Maharashtra Municipalities Act 1965 there is a provision for appeal against the proposal of revision of rateable value for levy of property tax. However, she contended that the petitioners have not preferred an appeal and challenged the revision in the present writ petition because it is a petition filed in the representative capacity. We are not impressed with the aforesaid argument. In our view, levy of the property tax in respect of each holder of the land is an independent assessment and is required to be separately

challenged and cannot be clubbed by way of representative proceedings under Order 1 Rule 8 of Code of Civil Procedure. Further, the computation of rateable value and percentage of enhancement requires a detailed investigation of facts.

5. It is not possible for us, in writ jurisdiction under Article 226 of the Constitution of India, to undertake any such exercise. We are of the opinion that in view of an alternate remedy available to the petitioners u.s.169 of the Maharashtra Municipalities Act 1965 the petitioners should individually prefer an appeal before the Appellate Authority who is a Magistrate in that respective area.

6. We thus, dismiss the present petition on the aforesaid ground. We are of the view that in the light of the pendency of the present writ petition in this court the petitioners should be given an opportunity to file appeals even at this stage and should be heard on merits. Thus, we permit the petitioners to file individual appeals before the

Appellate Authority u.s.169 of the Maharashtra Municipalities Act, 1965. We further direct that if such an appeals are filed within the period of 4 weeks from today then the learned Magistrate will hear the same on merits without going into the issue of limitation in filing the said appeal. We dispose of the petition accordingly with the aforesaid direction. However, there shall be no order as to costs.